

Message Text

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53-R
ACTION L-02

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----- 024076
O 141607Z JAN 75
FM AMEMBASSY LONDON
TO SECSTATE WASHDC IMMEDIATE 7229

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E.O. 11652: N/A
TAGS: CASC, UK, US
SUBJECT: EXTRADITION TREATY

REF: STATE 283862

1. EMBASSY APPRECIATIVE DEPARTMENT'S EFFORTS CONTINUE DPP REPRESENTATION IN EXTRADITION CASES. HOWEVER, WE WOULD LIKE TO BE MORE SPECIFIC WITH HMG IN ASSURING EXCLUSIVE DPP REPRESENTATION. SIR NORMAN SKELHORN, WHILE RECOGNIZING THAT THE 1972 TREATY IS NOT IN FORCE, REGARDS THE LETTER DATED MARCH 10, 1972, ADDRESSED TO PETER PFUND BY MISS VEASEY OF THE BRITISH EMBASSY, AS SUBSTANTIALLY BINDING UPON USG IN ASSURING THAT DPP IS EXCLUSIVE REPRESENTATIVE AND THAT NO POSSIBILITY OF EMBARRASSMENT ARISES AS IN THE CROSS CASE. THE TEXT OF THE LETTER IS AS FOLLOWS:

"YOU ASKED ME ON FEBRUARY 13, IN RESPECT TO THE SUBMISSION FOR EXTRADITION OF MR. HOWARD DEAN AITKEN, WHETHER HER MAJESTY'S GOVERNMENT WERE PREPARED TO ANTICIPATE THE SIGNING OF THE NEW EXTRADITION TREATY WITH THE UNITED STATES GOVERNMENT AND TO INTRODUCE FORTHWITH THE PROVISIONS OF ARTICLE 14(1) OF THE NEW TREATY. I AM NOW WRITING TO CONFIRM THAT HER MAJESTY'S GOVERNMENT AGREE TO YOUR SUGGESTION AND WILL OFFER THE SAME SERVICE TO THE UNITED STATES GOVERNMENT OVER THEIR REQUESTS FOR EXTRADITION FROM THE UNITED KINGDOM.

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"WE HOPE THEREFORE THAT THE DEPARTMENT OF JUSTICE
OF THE UNITED STATES CAN NOW REPRESENT HER
MAJESTY'S GOVERNMENT IN THE TWO CASES RECENTLY
SUBMITTED TO THE DEPARTMENT OF STATE."

2. IN VIEW REFTTEL, PROBABLY THE ONLY INSTANCE IN THE
FUTURE THAT COULD ARISE WHERE A STATE WOULD GO TO PRIVATE
COUNSEL WOULD BE IN A SITUATION INVOLVING PROVISIONAL
ARREST WHERE THE POLICE AUTHORITIES OF A STATE MIGHT GO
DIRECTLY TO THE POLICE AUTHORITIES OF THE UK. IN SUCH
A SITUATION THE STATE MIGHT EASILY START THE LEGAL BALL
ROLLING WITH PRIVATE COUNSEL BEFORE REALIZATION THAT DPP
FACILITIES EXIST AND THAT USG PREFERS DPP TO PRIVATE
COUNSEL.

3. ABOVE IS ONLY FORESEEABLE LOOPHOLE. EMBASSY PROPOSES
TO EXPLAIN THIS TO HMG INFORMALLY AND WILL MAKE SUITABLE
ARRANGEMENTS WITH THE EXTRADITION SQUAD OF SCOTLAND YARD
SO THAT WHEN STATE POLICE GO DIRECTLY TO UK POLICE TO
REQUEST PROVISIONAL ARREST THE EMBASSY WILL NOTIFY DE-
PARTMENT IMMEDIATELY SO IT IN TURN CAN COMMUNICATE WITH
THE STATE AUTHORITIES ADVISING THEM OF DPP'S EXCLUSIVE
REPRESENTATION IN EXTRADITION CASES. EVEN THIS MAY NOT
BE ENTIRELY ACCEPTABLE TO SKELHORN, BUT IN THE ABSENCE OF
A RATIFIED TREATY EMBASSY CAN SEE NO OTHER WAY TO AVOID
USE OF PRIVATE COUNSEL.

4. EMBASSY WILL EXPLAIN FURTHER THAT SINCE 1972 TREATY
IS NOT IN FORCE, STATES ARE UNAWARE OF PROVISIONS OF
ARTICLE 14(1) AND THERE IS NO PRACTICAL WAY USG CAN
PUBLICIZE THIS, BUT WILL TAKE ALL APPROPRIATE STEPS
TO ASSURE DPP EXCLUSIVITY IN REPRESENTATION WHILE, AT
THE SAME TIME, ATTEMPTING TO PLUG THE LOOPHOLE DES-
CRIBED IN PARAGRAPH TWO ABOVE.

5. EMBASSY WOULD APPRECIATE DEPARTMENT VIEWS.

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